

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 1:14-CR-306
)	
PEDRO ANTHONY ROMERO CRUZ,)	The Honorable Gerald Bruce Lee
et al.,)	
)	
Defendants)	
)	
)	

GOVERNMENT'S RESPONSE TO
DEFENDANT PAIZ GUEVARA'S MOTION TO SEVER AND CONTINUE

The United States of America, by and through its attorneys, Dana J. Boente, United States Attorney, Stephen M. Campbell, Julia K. Martinez, and Tobias D. Tobler, Assistant United States Attorneys, respectfully opposes defendant Manuel Ernesto Paiz Guevara's motion to continue the trial date in this matter.

The government is aware of defense counsel's illness and understands that Mr. Baugh will not be available for trial on March 21st. The government extends its sympathy to Mr. Baugh and his family and wishes him a speedy recovery. Nonetheless, the government cannot agree to continue the trial. This case was first indicted in September 2014 and the trial date was set in March of 2015, more than a year in advance. To delay the entire trial now, less than two months from trial, would greatly prejudice the government as well as the other defendants, all of whom are detained. The government expects to call a number of witnesses who will testify to first-hand knowledge of the murders, attempted murder, and other gang activity committed by

the defendants in this case. The defendants are all members or associates of MS-13, an international street gang known to take violent reprisal on those who speak out against the gang. These witnesses are understandably apprehensive and fearful, and delaying the trial will undoubtedly increase their anxiety and potentially jeopardize the government's evidence. The families of the four victims in this case also have an interest in seeing this trial go forward as scheduled. They have waited a long time to see these defendants brought to justice, and that justice should not be further delayed.

Counsel for Paiz Guevara have suggested severing defendant Paiz Guevara's case and proceeding with two separate trials. The government opposes severance for the same reasons that the government opposes continuing the trial as to all defendants. However, the government takes no position and defers to the Court as to issues concerning obtaining substitute counsel for Mr. Baugh and counsels' ability to effectively represent the defendant with the current trial schedule. If given the choice between continuing the entire trial and severing defendant Paiz Guevara, the government would advocate for severance. Paiz Guevara is charged in only one of the murders. Although the evidence and witnesses at a separate trial would necessarily be repetitive of the first, there are a number of witnesses who are relevant only to the other violent acts charged in the indictment and thus would not have to testify at a trial involving only Paiz Guevara. Moreover, given the potential jeopardy to the government's case that delay would invite, the government strongly prefers delaying the trial of only one defendant over delaying the trial of all defendants.

Finally, the government respectfully urges the Court to resolve the defendant's motion prior to the government's approaching *Brady* deadline of February 10. The government intends to make a limited number of disclosures on that date that have been previously withheld for

security reasons. The government further intends to make a large number of witness interview reports available for counsel to review. Should the trial date be continued, the government has a strong security interest in postponing the disclosure of witness information.

Respectfully submitted,

Dana J. Boente
United States Attorney

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st of February, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which automatically generated a Notice of Electronic Filing to counsel of record.

/s/

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